



1       2. These answering Defendants deny the allegations  
2 contained in paragraph 5 of Plaintiff's complaint and  
3 affirmatively allege that the Debtor Walid E. Jamil was a  
4 shareholder of the corporation known as Jamil Holdings, Inc., dba  
5 Universal Grocers and Abarrotera Mundial. A Mexico Corporation.  
6 The debtor, Awatif S. Jamil was not a shareholder of either of  
7 the corporations in which her husband was a shareholder. Neither  
8 Defendant, Walid E. Jamil nor Awatif S. Jamil, were shareholders  
9 of the corporation known as Tri-Mex Distributors, Inc., a  
10 California Corporation.

12       3. These answering Defendants deny the allegations  
13 contained in paragraph 6 of Plaintiffs complaint.

14       4. These answering Defendants admit the allegations  
15 contained in paragraph 7 of Plaintiffs complaint.

16       B. Jurisdiction and Venue

17       5. These answering Defendants admit the allegations  
18 contained in paragraphs 8 through 10 of Plaintiffs complaint.

19       C. Factual Background

20       6. These answering Defendants deny the allegations  
21 contained in paragraphs 24, inclusive, of Plaintiffs complaint.  
22 These answering Defendants admit that substantial documentation  
23 was provided to Plaintiffs at Plaintiffs request to perform their  
24 due diligence with regard to investing into the business  
25 enterprise in Mexico. These answering Defendants further allege  
26 that all monies provided by Plaintiffs was in the form of  
27 investments to the Mexico business enterprise and not loans as  
28 investments to the Mexico business enterprise and not loans as

1 alleged by Plaintiffs, and that therefore such sums are not due  
2 and owing as the investment was lost in the business venture.

3 D. Count 1 - Exception to Discharge Under 11 U.S.C.

4 523(a) (2) (A)

5 7. In answer to paragraph 25 of Plaintiff's complaint,  
6 these answering Defendants incorporate their answers to the  
7 paragraphs incorporated therein as if set forth in full herein.

8 8. These answering Defendants admit the allegations  
9 contained in paragraph 26 of Plaintiffs complaint.

10 9. These answering Defendants deny each and every  
11 allegation contained in paragraphs 27 through 29 inclusive, of  
12 Plaintiff's complaint. These answering Defendants affirmatively  
13 aver that the funds provided were investment funds into a  
14 business venture which were provided based upon the due diligence  
15 of the Plaintiffs.

16 E. Count II - Exception to Discharge Under 11 U.S.C.

17 523(a) (2) (B)

18 10. In answer to paragraph 30 of Plaintiff's complaint,  
19 these answering Defendants incorporate their answers to the  
20 paragraphs incorporated therein as if set forth at full herein.

21 11. These answering Defendants admit the allegations  
22 contained in paragraph 31 of Plaintiffs complaint.

23 12. These answering Defendants deny each and every  
24 allegation contained in paragraphs 32 through 36 inclusive, of  
25 Plaintiff's complaint. These answering Defendants affirmatively  
26 aver that the funds provided were investment funds into a

1 business venture which were provided based upon the due diligence  
2 of the Plaintiffs.

3 F. Count III - Exception to Discharge Under 11 U.S.C. 523(a)(4)

4 13. In answer to paragraph 37 of Plaintiff's complaint,  
5 this answering Defendant incorporates it's answers to the  
6 paragraphs incorporated therein as if set forth at full herein.

7 14. These answering Defendants admit the allegations  
8 contained in paragraph 38 of Plaintiffs complaint.

9 15. These answering Defendants deny each and every  
10 allegation contained in paragraphs 2739 and 40 of Plaintiff's  
11 complaint. These answering Defendants affirmatively aver that  
12 the funds provided were investment funds into a business venture  
13 which were provided based upon the due diligence of the  
14 Plaintiffs.

15 G. Count IV - Exception to Discharge Under 11 U.S.C. 523(a)(6)

16 16. In answer to paragraph of Plaintiff's complaint, this  
17 answering Defendant incorporates it's answers to the paragraphs  
18 incorporated therein as if set forth at full herein. As to the  
19 balance of the paragraph related to Section 523(a)(6) of the  
20 bankruptcy Code, these answering Defendants admit the allegations  
21 contained therein.

22 17. These answering Defendants deny the allegations  
23 contained in paragraphs 42 and 43 of Plaintiffs complaint.

24 II  
25

26 27 AFFIRMATIVE DEFENSE  
28

1 AS A FIRST, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
2 COMPLAINT AND EACH CAUSE OF ACTION THEREIN, DEFENDANTS ALLEGE AS  
3 FOLLOWS:

4 Plaintiffs Complaint, and each and every purported cause of  
5 action alleged therein, fails to state facts sufficient to  
6 constitute a cause of action against these answering Defendants.

7 AS A SECOND, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
8 COMPLAINT AND EACH CAUSE OF ACTION THEREIN, DEFENDANTS ALLEGE AS  
9 FOLLOWS:

10 Without admitting any of the allegations of the Complaint,  
11 Defendants allege that Plaintiffs have failed to exercise  
12 reasonable care for their protection against the type of damages  
13 and incidents alleged to have occurred in this Complaint. If any  
14 such damage has occurred, it was proximately and legally caused  
15 in some portion, up to the whole thereof, by the Plaintiffs and  
16 therefore any award against this answering Defendant, if any,  
17 must be reduced in proportion to the comparative fault of the  
18 Plaintiffs.

19 AS A THIRD, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
20 COMPLAINT AND EACH CAUSE OF ACTION THEREIN, DEFENDANTS ALLEGE AS  
21 FOLLOWS:

22 Without admitting any of the allegations of the Complaint,  
23 Defendants are informed and believe, and thereupon allege, that  
24 if Plaintiffs suffered any damage as a result of the allegations  
25 set forth in this Complaint, Plaintiffs are not entitled to  
26 recover from Defendants any damages due to Plaintiffs failure to  
27

1 take reasonable efforts to mitigate the damages said Plaintiffs  
2 allegedly incurred.

3 AS A FOURTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
4 COMPLAINT AND EACH CAUSE OF ACTION THEREIN, DEFENDANTS ALLEGE AS  
5 FOLLOWS:

6 Without admitting any of the allegations of the Complaint,  
7 Defendants are informed and believe, and thereon allege, that if  
8 these answering Defendants are found to be liable, then  
9 Defendants action or inaction was not the sole, legal or  
10 proximate cause of the incidents upon which liability is based or  
11 damages awarded, if any, and that accordingly, any damages  
12 awarded must be apportioned according to the respective fault of  
13 all parties, persons or entities, or their agents, servants and  
14 employees, who contributed to or caused the alleged incidents or  
15 damages, according to proof at the time of trial.

16 AS A FIFTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
17 COMPLAINT AND EACH CAUSE OF ACTION THEREIN, DEFENDANT ALLEGES AS  
18 FOLLOWS:

19 Without admitting any of the allegations of the Complaint,  
20 Defendants allege that Plaintiffs conduct relative to these  
21 answering Defendants and the relationship between Plaintiffs and  
22 these answering Defendants was such as to bring the Plaintiffs  
23 into this lawsuit with unclean hands, and as such, Plaintiffs are  
24 barred from pursuing the claims alleged.

25 AS A SIXTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
26 COMPLAINT AND EACH CAUSE OF ACTION THEREIN, DEFENDANTS ALLEGE AS

1     FOLLOWS:

2                 Without admitting any of the allegations of the Complaint,  
3     Defendant is informed and believes, and thereon alleges, that the  
4     Complaint filed by Plaintiffs against this Defendant was brought  
5     without reasonable care and without a good faith belief that  
6     there was a justiciable controversy under the facts and law which  
7     warranted the filing of the Complaint against this responding  
8     Defendant, as the agreement provided for the purchase of 50% of  
9     OK stores, which purchase was acquired but through the failure of  
10    Plaintiffs to complete the capital payments, the stores were  
11    lost, and Plaintiffs now try to claim other entities as the basis  
12    of the transaction, and as such Plaintiffs should therefore be  
13    responsible for all of Defendant's necessary and reasonable  
14    defense costs, including attorney's fees.

16                 AS A SEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
17    COMPLAINT AND EACH CAUSE OF ACTION THEREIN, DEFENDANT ALLEGES AS  
18    FOLLOWS:

19                 Without admitting any of the allegations of the Complaint,  
20    Defendants are informed and believe, and thereon alleges that the  
21    monies due as alleged in the complaint were in actuality funds  
22    provided for capital contributions due and owing to the  
23    identified corporate entities so that Plaintiffs could acquire an  
24    interest in the Mexico business ventures after Plaintiffs  
25    representatives, who are substantial sophisticated business  
26    individuals, had fully performed their due diligence, and any  
27    writings to the contrary were represented to Defendants by

1 Harvey Vechery to merely be to avoid any dispute between HARVEY  
2 VECHERY and LINDA VECHERY, who were in actuality the true  
3 investors with regard to such investment rather than to represent  
4 any actual monies due and owing from Defendants.

5 AS AN EIGHTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
6 COMPLAINT AND EACH CAUSE OF ACTION THEREIN, DEFENDANT ALLEGES AS  
7 FOLLOWS:

8 Without admitting any of the allegations of the Complaint,  
9 Defendants allege that if any contracts, obligations, or  
10 agreements as alleged in the Complaint have been entered into,  
11 any duty or performance of Defendants is excused by reason of  
12 Plaintiffs breach of their obligations and commitments which lead  
13 to the loss of the enterprise under which the monies were paid,  
14 and specifically, that the funds were provided as an investment  
15 to acquire three OK Stores in Mexico, as well as continue  
16 operation of the Go4Valu enterprise with Defendants and  
17 Plaintiffs each having a 50% interest in the stores. Plaintiff  
18 agreed by letter of intent to provide capital to obtain the  
19 stores and provide necessary inventory. Plaintiffs provided  
20 funds over an extended period of time greater than anticipated by  
21 the parties and subsequently failed to provide the full capital  
22 agreed, and that as a result thereof the failure to provide such  
23 additional capital by the Plaintiffs caused the loss of the  
24 stores.

25  
26  
27 AS A NINTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
28 COMPLAINT AND EACH CAUSE OF ACTION THEREIN, DEFENDANT ALLEGES AS

1 FOLLOWS:

2       Without admitting any of the allegations of the Complaint,  
3 Defendants allege that the monies provided were not loans to be  
4 repaid, but rather an investment in the Mexico ventures, which  
5 investments were made by Plaintiffs after full and careful due  
6 diligence and inspection of records and facilities, and therefore  
7 the monies are subject to discharge as investments provided after  
8 full and open investigation.

9           AS A TENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND  
10 AMENDED COMPLAINT AND EACH CAUSE OF ACTION THEREIN, DEFENDANT  
11 ALLEGES AS FOLLOWS:

12       Without admitting any of the allegations of the Complaint,  
13 Defendants are informed and believes and based thereon allege  
14 that the amounts invested by Plaintiffs were invested after  
15 careful and diligent investigation of the financial condition of  
16 the business venture as well as inspection of the facilities of  
17 the business enterprise, and not as a result of any fraud or  
18 improper conduct by Defendants.

19           AS AN ELEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
20 SECOND AMENDED COMPLAINT AND EACH CAUSE OF ACTION THEREIN,  
21 DEFENDANT ALLEGES AS FOLLOWS:

22       Without admitting any of the allegations of the Complaint,  
23 Defendants are informed and believes and based thereon allege  
24 that the amounts invested by Plaintiffs were invested after  
25 careful and diligent investigation of the financial condition of  
26 the business venture as well as inspection of the facilities of  
27 the business enterprise, and not as a result of any fraud or  
28 improper conduct by Defendants.

1 the business enterprise, and not as a result of any conversion of  
2 funds by Defendants of the monies invested into the business  
3 venture.

4 AS A TWELFTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
5 SECOND AMENDED COMPLAINT AND EACH CAUSE OF ACTION THEREIN,  
6 DEFENDANT ALLEGES AS FOLLOWS:

7 This answering Defendant presently has insufficient  
8 knowledge or information upon which to form a belief as to  
9 whether there may be additional, as yet unstated, affirmative  
10 defenses. This answering Defendant therefore reserves the right  
11 to assert additional affirmative defenses in the event discovery  
12 indicates it would be appropriate.

14 WHEREFORE, this answering Defendant prays as follows:

15 1. That the claim of Plaintiffs are discharged pursuant to  
16 the Bankruptcy Petition of the Defendants;

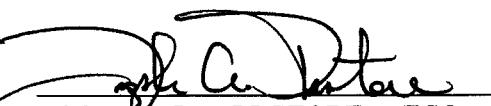
17 2. That these answering Defendants have judgment against  
18 the Plaintiffs for costs of suit incurred herein;

19 3. That these answering Defendants recover attorneys fees  
20 incurred herein; and

21 4. For such other and further relief as this court may  
22 deem just and proper.

24 DATED: April 29, 2009

SOREM & PASTORE, Lawyers

26 By: 

JOSEPH A. PASTORE, ESQ.  
Attorney for Defendants